

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GEORGE DANIELLO, JAMES O'MARA,  
DENNIS FARRELL, and STEPHEN MCINERNEY,  
as Trustees and Fiduciaries of the TEAMSTERS  
LOCAL 814 PENSION FUND, the TEAMSTERS  
LOCAL 814 ANNUITY FUND, and the TEAMSTERS  
LOCAL 814 WELFARE FUND,

Plaintiffs,

- against -

THE PML FURNITURE GROUP OF NJ, LTD.,  
UPTOWN CONSULTANTS, INC., and MZ  
CONSULTANTS, INC.,

Defendants.  
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ORDER

06-CV-5261 (ENV) (RER)

VITALIANO, D.J.

Plaintiffs George Daniello, James O'Mara, Dennis Farrell, and Stephen McInerney, as Trustees and Fiduciaries of the Teamsters Local 814 Pension, Annuity, and Welfare Funds (collectively, the "Funds"), filed this action against defendants The PML Furniture Group of NJ, Ltd. ("PML"), Uptown Consultants, Inc. ("Uptown"), and MZ Consultants, Inc. ("MZ Consultants") seeking to collect delinquent contributions and withdrawal liability pursuant to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq. ("ERISA"). PML had entered into a series of collective bargaining agreements obligating it to make contributions to the Funds, which it failed to make. Plaintiffs sued Uptown and MZ Consultants as well to hold them liable for PML's withdrawal liability, contending that they were members of a control group under 29 U.S.C. § 1301(b)(1).

After defendants failed to answer or otherwise respond to the complaint, plaintiffs moved for default judgment on December 13, 2007. The Clerk of the Court noted defendants' default, pursuant to Federal Rule of Civil Procedure 55(a), on December 14, 2007. On November 6, 2008, this Court granted plaintiffs' motion for default judgment. The inquest to determine the amount of damages to be awarded was referred to Magistrate Judge Ramon E. Reyes.

On May 6, 2009, Magistrate Judge Reyes issued a Report and Recommendation ("R&R") recommending that default judgment be entered against PML individually in the amount of \$7393.71 (comprised of \$1900.80 in delinquent contributions; \$1958.58 in prejudgment interest; \$1958.58 in liquidated damages; \$1338.75 in attorneys' fees; and \$237 in costs). The R&R further recommends that default judgment be entered against PML, Uptown, and MZ Consultants jointly and severally in the amount of \$2,170,366.19 (comprised of \$756,691 in withdrawal liability; \$706,018.72 in prejudgment interest; \$706,018.72 in liquidated damages; \$1338.75 in attorneys' fees; and \$299 in costs). Proof of service of the R&R on defendants was filed on May 6, 2009. No objections to it have been timely filed.

In reviewing a report and recommendation, the court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Moreover, in order to accept a Magistrate Judge's report and recommendation where no timely objection has been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F.Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

After careful review of all the evidence in the record below, the Court finds Magistrate

Judge Reyes's Report and Recommendation as to the appropriate amount of damages to be correct, comprehensive, well-reasoned, and free of any clear error.

The Clerk is directed to enter Judgment in accordance with this opinion and to close this case.

SO ORDERED.

DATED:      Brooklyn, New York  
              December 8, 2009

s/ENV

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ERIC N. VITALIANO  
United States District Judge